



U.S. House of Representatives
Committee on Transportation and Infrastructure

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SUMMARY OF SUBJECT MATTER:

TO: Members of the Subcommittee on Water Resources and Environment

FROM: Subcommittee on Water Resources and Environment Staff

SUBJECT: Hearing on H.R. 135, the "Twenty-First Century Water Commission Act of 2007"

PURPOSE OF HEARING

The Subcommittee on Water Resources and Environment is scheduled to meet on Thursday, November 8, 2007, at 10:00 a.m. in 2167 RHOB, to receive testimony on H.R. 135, the "Twenty-First Century Water Commission Act of 2007." Testimony is expected from the sponsor of the legislation, Representative John Linder, U.S. Environmental Protection Agency ("EPA"), representatives of a state water board, non-governmental organizations, and a water rights attorney.

BACKGROUND

The United States is a nation blessed with abundant water resources across much of the landscape. In addition, investment in water infrastructure has helped provide reliable water resources for the more arid regions, as well as those with less reliable water supplies. The nation's waters support myriad human uses and needs, power generation, navigation, and industry while also providing for a globally diverse freshwater ecosystem.

The water resources of the United States are not evenly distributed across the country resulting in very different water resource management strategies. Historically, areas such as the northeast have relatively abundant water resources requiring mostly flood protection, while the west and southwest, in particular, are quite dry necessitating greater water supply infrastructure.

These widely diverse conditions around the United States are all managed differently and often independently of other projects. There are many federal and state agencies with management responsibilities in addition to the very different water laws of the various states. Most of this has resulted in very local views of project operations and needs with little consideration of the broader watersheds that surround these projects. In addition, there have been increased demands for water resources, in part due to increased population and an increased recognition of the need to reserve water for aquatic ecosystems, as well as consumptive uses. These different operations and

conditions are resulting in greater conflict over water resources and are potentially subject to changing climactic conditions.

The past year saw historic floods throughout New England and again this spring in New Hampshire, while the southeast is gripped in a record breaking drought which is impacting seven states. This is in addition to the ongoing controversies about water resource management for the Apalachicola/Chatahoochee/Flint rivers ("ACF") affecting Alabama, Georgia, and Florida; or the Missouri River disputes between upper basin states and lower basin states; or the oversubscribed Colorado River system.

The current drought in the southeast emphasizes the challenges that have overwhelmed the ACF basin for years. The diverse water resource needs within the system often cause one user's needs to run counter to those of other water users. This year Lake Lanier is near record low levels, and without significant rains only has approximately 280 days of water remaining. Atlanta is one of the dominant water users in the basin with tremendous water demands to support its growing population. Other interests include downstream municipal water users in Georgia and Alabama, industrial users in Alabama, and the ecological needs of Tupelo trees, endangered mussels, oysters, and recreational uses in Florida.

The Missouri River basin is another watershed that has seen divergent needs put tremendous pressure on an ultimately limited resource. The upper basin users depend on the Missouri River for water supply and recreation, while the lower basin states depend on the river for navigation needs, water supply and recreation; and two endangered species also depend on certain type of operations of the dams on the mainstem of the river. The management of the Missouri River has been contentious for years as a result of these often conflicting interests. In addition, conditions have gotten worse in the past few years as sustained drought conditions have enhanced the conflict as up stream interests want to hold water back for water supply needs, while the downstream interests need more water released to sustain navigation.

While these examples are representative of some existing water resource challenges, global climate change is predicted to exacerbate these conditions and place greater fiscal and management burdens on the nation. In an April 2007 report, the Intergovernmental Panel on Climate Change ("IPCC") Working Group reported that "by mid-century, annual average river runoff and water availability are projected to increase by 10-40% at high latitudes and in some wet tropical areas, and decrease by 10-30% over some dry regions at mid-latitudes and in the dry tropics, some of which are presently water stressed areas...Drought-affected areas will likely increase in extent. Heavy precipitation events, which are very likely to increase in frequency, will augment flood risk...In the course of the century, water supplies stored in glaciers and snow cover are projected to decline, reducing water availability in regions supplied by meltwater from major mountain ranges, where more than one-sixth of the world population currently lives...The resilience of many ecosystems is likely to be exceeded this century by an unprecedented combination of climate change, associated disturbances (e.g., flooding, drought, wildfire, insects, ocean acidification), and other global change."

Earlier this year, the Committee received testimony that indicates sea level rise will increase the vulnerability of coastal infrastructure to flooding and storm surge, speed the loss of coastal wetlands and lead to salt water intrusion into coastal aquifers and upstream water supply infrastructure.

Since the 1950's there have been at least seven different commissions empanelled to examine Federal water policy. The last review of water policy was the Western Water Policy Advisory

Review Commission which was authorized in 1992 and issued its report in 1998. There has not been a comprehensive review of Federal water policy since 1973. Given the current challenges that exist in a number of large watersheds, and the greater challenges to be faced with changes brought on by factors such as climate change, increasing population, endangered species, and other competing uses there needs to be a comprehensive review of national water policies, and an assessment that starts to review watershed needs and planning. Earlier this year, the Committee approved by voice vote legislation to create a comprehensive review of national water policies, also called the 21st Century Water Commission. This provision, which was included in Section 702 of the Transportation Energy Security and Climate Change Mitigation Act of 2007 (H.R. 2701), establishes a commission to provide expert scientific guidance on future water supply and demand projections, climate change impacts to our nation's flood risk and water demand, and associated climate change impacts on water quality. This commission would study current federal, state, and local water resources management programs and activities, and ensure that the nation is adequately prepared to meet the water supply, water quality, and water resources demands of the next 50 years. This provision was incorporated into H.R. 3221, New Direction for Energy Independence, National Security, and Consumer Protection Act, which was approved by the House on August 4, 2007, by a vote of 241 to 172. The Subcommittee on Water Resources and Environment is planning a hearing early in 2008 covering comprehensive watershed planning.

H.R. 135, THE "TWENTY-FIRST CENTURY WATER COMMISSION ACT OF 2007"

H.R. 135, the "Twenty-First Century Water Commission Act of 2007," would establish a commission to provide for water assessments to project future water supply and demand, review current water management programs at each level of government, and develop recommendations for a comprehensive water strategy, and would authorize \$9 million to carry out these functions. Modeled after the 1968 National Water Commission Act, the "Twenty-First Century Water Commission" would consist of nine non-Federal members, appointed by the President, Speaker of the House, and Majority Leader of the Senate.

Specifically, H.R. 135 would require that the recommendations developed by the Commission must: respect the rights of States in regulating water rights and uses, identify incentives to ensure a dependable water supply for the nation over the next 50 years, suggest strategies to avoid unfunded mandates, eliminate duplication among Federal agencies of jurisdiction, consider all available technologies, make recommendations for capturing excess water and flood water for conservation and subsequent use in times of drought, develop financing options for public works projects, and suggest strategies to conserve existing water supplies and repairs to infrastructure. The Commission may consider other objectives related to the effective management of the water supply to ensure reliability, availability, and quality which the Commission considers appropriate.

The Commission would issue interim reports every six months and a final report within three years. After issuing its final report, the Commission would cease to exist.

ⁱ Intergovernmental Panel on Climate Change, Working Group II. *Climate Change 2007: Impacts, Adaptation and Vulnerability*. Contribution to the Fourth Assessment Report Summary for Policymakers.. Geneva: IPCC: April 2007.